

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS (Eastern Division)

DIRECTV, INC.

Plaintiff,

vs.

Edward Madden

Defendant

) Case No.: **03cv12253 REK**

) **JOINT STATEMENT OF THE PARTIES**
) **PURSUANT TO LOCAL RULE 16.1(D)**

Now come the Plaintiff, DIRECTV, and the Defendant, Edward Madden and pursuant to Local Rule 16.1(D), do hereby submit the following Joint Statement to this Honorable Court.

I. PARTIES' CONFERENCE

John M. McLaughlin, Counsel for the Plaintiff and Henry Cashman, Counsel for the Defendant, do hereby certify that they have teleconferenced, on the issues required be discussed pursuant to this rule on November 4, 2004.

II. SETTLEMENT PROPOSAL

Counsel for the Defendant, does hereby certify that he received a Settlement Proposal from the Plaintiff accompanying the Joint Statement, pursuant to Local rule 16.1(C). Counsel for the Plaintiff does hereby certify that he presented said Settlement Proposal to the Defendant. At this time, the Defendant is not in a position to accept the Plaintiff's demand for settlement of the above matter.

III. MEDIATION

Prior to the initiation of the first phase of Discovery, the Parties agree to submit this

dispute to non-binding mediation before the Senior Judge or Magistrate or Panel Member pursuant to Local Rule 16.4(c)(4). Thereafter should mediation be unsuccessful at resolving this matter this Court may set a date as the initiation date for Discovery ("Post Mediation Discover Initiation Date") said date being two weeks after the actual in-Court mediation.

IV. JOINT STATEMENT AS TO DISCOVERY/MOTIONS

The following represents the Agreement of the Parties and is submitted to the Court such that the Court can utilize same in devising the Scheduling Order.

1. First Phase of Discovery, Non-expert Depositions and Paper Discovery , to be completed by March 17, 2005.

The Parties propose that the first phase of discovery be for developing information needed for a realistic assessment of the case. This can best be achieved through Non-expert depositions and written discovery.

The depositions of non-expert witnesses shall not exceed seven (7) hours per witness unless leave of the Court has been obtained or a written stipulation of the parties has been entered into to exceed said seven (7) hour limitation. The parties may also utilize subpoena duces tecum in conjunction with these non-expert depositions.

The Parties propose that the written discovery shall include, but not limited to, interrogatories, requests for production, and requests for admissions. Pursuant to Fed. R. Civ. P. 33, interrogatories shall be limited to 25 in number, including sub-parts. Pursuant to Fed. R. Civ. P. 34, each person shall have the opportunity to submit two sets of requests for production of documents and things to the other party.

2. Second Phase of Discovery, Expert Discovery, to be completed by July 17, 2005.

a. The Parties propose that the second phase of discovery is expert discovery. To that end, the parties propose that the Plaintiff shall disclose to the Defendant all experts relied upon by said Plaintiff in its instant case no later than April 1, 2005. The Defendant shall disclose to the Plaintiff all experts relied upon by the Defendant no later May 1, 2005.

b. The parties shall then have the right to conduct written expert discovery; this written discovery is in addition to the written discovery conducted in phase one. Written expert discovery shall be served by the close of business June 1, 2005. The interrogatories of experts shall be no longer than fifteen questions, including sub-parts. Each party shall be entitled to one set of request for production of documents concerning the designated experts. Expert discovery is *still subject to the usual obligations and privileges.*

c. The parties shall schedule all expert depositions to be held no later than July 17, 2005.

d. During the second phase of discovery, which is presumably for expert discovery, each party shall also have the right to at least four (4) additional hours of non-expert depositions. These depositions will be in addition to depositions referenced in earlier phases of discovery.

3. Motions

a. With respect to motions, the parties submit that any motions filed under Fed. R. Civ. P. 12, 13, 14, and 15 shall be filed no later than September 17, 2005 (taking into account that the second and presumably the final phase of discovery may be extended if there is a party added or if there had been time added due to a discovery controversy). Furthermore, motions pursuant to Fed. R. Civ. P. 56 shall

be filed no later than October 17, 2005 (again taking into account that the final phase of discovery may be extended if there is a party added or if there had been time added due to a discovery controversy).

V. CERTIFICATION

Counsel for the Plaintiff, Counsel for the Defendant and the Parties certify by their signatures below and all pursuant to Local Rule 16.1(D) that each Party and said Parties Counsel have conferred as to:


1. Establishing a budget for the cost of conducting the full course and various alternative courses of litigation; and,
2. To consider the resolution of litigation to the use of alternative dispute resolution programs.

VI. CONSENT TO APPEAR BEFORE A MAGISTRATE

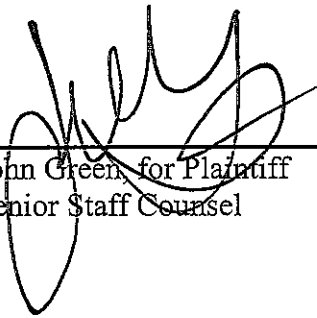
The Plaintiff is amenable to Trial before a Magistrate, however, the Defendant is not amenable to Trial before a Magistrate.

Respectfully Submitted for the Plaintiff,
By Its Attorney,

11/10/04
Date



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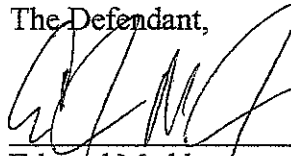
John Green, for Plaintiff
Senior Staff Counsel

Respectfully Submitted for the Defendant By His
Attorney,



Henry Cashman
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617-268-6665

The Defendant,



Edward Madden